INDEX

	Page
Opinion below	1
Jurisdiction	2
Question presented	3
Statute and regulation involved	4
Statement	4
Specification of errors to be urged	7
Reasons for granting the writ	7
Conclusion	16
Appendix	17

CITATIONS

Cases:

Baltimore & O. R. Co. v. *Kepner*, 314 U. S. 44	11
Bowles v. *American Stores, Inc.*, 139 F. 2d 377	12
Bowles v. *Barde Steel Co.*, 164 Pac. 2d 692	10
Bowles v. *Griffin*, 151 F. 2d 458	12
Bowles v. *Heckman*, 64 N. E. 2d 660	10
Claflin v. *Houseman*, 93 U. S. 130	3, 9
Desper v. *Warner Holding Co.*, 219 Minn. 607	11, 12
Emerson v. Mary Lincoln Candies, Inc., 173 Misc. 531, 154 Misc. 353, affirmed, 261 App. Div. 879, 261 App. Div. 1044, affirmed, 287 N. Y. 577	16
First National Bank v. *Morgan*, 132 U. S. 141	8, 9
Forsyth v. Central Foundry Co., 240 Ala. 277	16
Herb v. *Pitcairn*, 324 U. S. 117	2, 8
Herb v. *Pitcairn*, 325 U. S. 77	11
Hulbert v. *Twin Falls County*, No. 238, Oct. T. 1945, decided February 4, 1946	2
Huntington v. *Attrill*, 146 U. S. 657	10, 12
Illinois ex rel. Gordon v. *United States*, No. 749, Oct. T. 1945, decided April 22, 1946	10
Joslin Co. v. *Providence*, 262 U. S. 668	2
Joslin Manufacturing Co. v. *Clarke*, 44 R. I. 31	2
Lambros v. *Brown*, 41 Atl. 2d 78	11, 12
Lapinski v. *Copacino*, 131 Conn. 119	11, 12
McKnett v. *St. Louis & S. F. Ry. Co.*, 292 U. S. 230	2, 3, 8
Miller v. *Municipal Court of Los Angeles*, 22 Cal. 2d 818	11
Minneapolis & St. Louis R. R. Co. v. *Bombolis*, 241 U. S. 211	8
Overnight Transportation Co. v. *Missel*, 316 U. S. 572	12, 15

711186—46——1

Cases—Continued — Page

Porter v. *Warner Holding Co.*, No. 793, Oct. T. 1945, decided June 3, 1946 — 14
Regan v. *Kroger Grocery & Baking Co.*, 386 Ill. 284 — 11, 12
Robertson v. Argus Hosiery Mills, 121 F. 2d 285, certiorari denied, 314 U. S. 681 — 16
Robertson v. *Baldwin*, 165 U. S. 275 — 10
Robinson v. *Norato*, 71 R. I. 256, 43 Atl. 2d 467 — 6, 8
Schaffer v. *Leimberg*, 62 N. E. 2d 193 — 11, 12
Schaubach v. *Anderson*, 184 Va. 795 — 11, 12
Second Employers' Liability Cases, 223 U. S. 1 — 3, 8, 10, 11
Stevenson v. *Stoufer*, 21 N. W. 2d 287 — 12, 13
Tennessee v. *Davis*, 100 U. S. 257 — 10
Thierry v. *Gilbert*, 147 F. 2d 603 — 12
Tidewater Opt. Co. v. Wittcamp, 179 Va. 545 — 16
Walker v. Gilman, Sup. Ct. of Wash., decided Aug. 8, 1946 — 11, 12
Zuest v. *Ingra*, 134 N. J. L. 15 — 12

Constitution of the United States:
Article VI, cl. 2 — 9

Statutes and regulation:
Emergency Price Control Act of 1942, c. 26, 56 Stat. 23, as amended by the Stabilization Extension Act of 1944, c. 325, 58 Stat. 632, 50 U. S. C. App., Supp. V, Sec. 901 *et seq.*
Sec. 4 (a) — 17
205 (b) — 17
205 (c) — 13, 18
205 (d) — 19
205 (e) — 13, 19
Fair Labor Standards Act, c. 676, 52 Stat. 1060, 1069 (29 U. S. C. § 216 (b)):
Sec. 16 (b) — 12, 15
General Laws of Rhode Island 1938:
c. 496, § 10 — 9
c. 500, § 28 — 9
c. 525, § 7 — 9
c. 526, § 6 — 9
c. 631, § 4 — 9
Maximum Price Regulation 540, 9 F. R. 6434 — 4

Miscellaneous:
Annual Report for the fiscal year 1945, Administrative Office of United States Courts — 15
Hearings on H. R. 4376, 78th Cong., 2d sess., before the House Committee on Banking and Currency, Vol. 1 — 14
OPA Sixteenth Quarterly Report (H. Doc. 665, 79th Cong., 2d sess) — 14
S. Rep. 922, 78th Cong., 2d sess — 14
Charles Warren, *Federal Criminal Laws and the State Courts* (1925) 38 Harv. L. Rev. 545 — 10

In the Supreme Court of the United States

OCTOBER TERM, 1946

No. 431

ALFRED TESTA AND PAUL A. PORTER, ADMINISTRATOR OFFICE OF PRICE ADMINISTRATION, PETITIONERS

v.

HARRY KATT

PETITION FOR A WRIT OF CERTIORARI TO THE SUPERIOR COURT OF THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS FOR PROVIDENCE AND BRISTOL COUNTIES

Alfred Testa, plaintiff in the trial court, and Paul A. Porter, Administrator, Office of Price Administration, intervenor therein, pray that a writ of certiorari issue to review a final judgment of the Superior Court of Rhode Island for Providence and Bristol Counties entered August 16, 1946, pursuant to an opinion of the Supreme Court of Rhode Island rendered May 23, 1946.

OPINION BELOW

The Superior Court wrote no opinion. The opinion of the Supreme Court of Rhode Island (R. 36–38) is reported at 47 Atl. 2d 312.

JURISDICTION

The final judgment of the Superior Court of Rhode Island in favor of defendant was entered August 16, 1946 (R. 40). The opinion of the Supreme Court of Rhode Island was rendered May 23, 1946 (R. 36–38). The jurisdiction of this Court is invoked under Section 237 (b) of the Judicial Code as amended by the Act of February 13, 1925, on the ground that the decision below denied a title, right, privilege or immunity claimed by the petitioner under Section 205 (e) of the Emergency Price Control Act of 1942 as amended. The cases relied upon to sustain the jurisdiction of this Court are *Hulbert* v. *Twin Falls County,* No. 238, Oct. T. 1945, decided February 4, 1946; *Herb* v. *Pitcairn,* 324 U. S. 117; *McKnett* v. *St. Louis & S. F. Ry. Co.,* 292 U. S. 230; and *Joslin Co.* v. *Providence,* 262 U. S. 668.[1]

The court below held that the courts of Rhode Island must refuse to entertain jurisdiction of a consumer's action under Section 205 (e) of the Emergency Price Control Act as amended on the

[1] In *Joslin Co.* v. *Providence*, 262 U. S. 668, the Supreme Court of Rhode Island, in an opinion handed down on July 6, 1921, held that the state statute involved was constitutional, and ordered the cases sent back to the Superior Court for further proceedings. *Joslin Manufacturing Co.* v. *Clarke*, 44 R. I. 31, 33. Thereafter, on August 12, 1921, the Superior Court entered decrees dismissing the bills of complaint. The writs of error, running to the Superior Court, were allowed on November 10, 1921. This Court had no doubt of its jurisdiction. 262 U. S. at 673.

ground that such a proceeding is an action to recover a penalty authorized by a foreign statute.

The claim of federal right was urged in the Sixth District Court and in the Superior Court for the Counties of Providence and Bristol on appeal; in both those tribunals it was upheld, and decision was entered for the plaintiff. On appeal to the Supreme Court of Rhode Island, the defendant's exception to the overruling of his demurrer to the declaration was sustained and the federal right denied (R. 36–38). The final judgment of the Superior Court for the defendant (R. 40) was entered in accordance with the decision of the Supreme Court.

The question presented is one of substance (*McKnett* v. *St. Louis & S. F. Ry. Co.*, 292 U. S. 230; *Second Employers' Liability Cases*, 223 U. S. 1; *Claflin* v. *Houseman*, 93 U. S. 130), as is more fully developed under the reasons for granting the writ, *infra*, pp. 7–16.

QUESTION PRESENTED

Whether a state court of general jurisdiction may refuse to entertain a consumer's action for damages in respect of an over-ceiling sale, brought under Section 205 (e) of the Emergency Price Control Act of 1942 as amended, on the ground that it is an action for a penalty based on the statute of a foreign sovereign.

STATUTE AND REGULATION INVOLVED

The statute involved is set out in the Appendix, *infra*, pp. 17–21. The Regulation involved is Maximum Price Regulation 540 (9 F. R. 6434); since its application in the ascertainment of the proper ceiling price was not disputed (R. 3–4) it is not more fully set out.

STATEMENT

On August 26, 1944, petitioner Alfred Testa commenced an action against respondent, Harry Katt, in the Sixth District Court of Rhode Island to recover statutory damages and counsel fees under Section 205 (e) of the Act. The *ad damnum* in the declaration was laid at $900.00.

The declaration in the District Court alleged, and the evidence later established without dispute, that on August 3, 1944, respondent sold to petitioner Testa a 1939 La Salle Club Coupe automobile equipped with radio and heater and received in payment therefor $1,100, which was $210 above the maximum price of $890 prescribed by the applicable OPA Regulation (R. 2–3, 36). To this declaration, respondent demurred upon several grounds which, in substance, asserted that the courts of Rhode Island had no jurisdiction of the action because it was not authorized by Rhode Island law, but rather by the laws of the United States, and was penal and not remedial in

nature (R. 3–4).[2] This demurrer was overruled by the District Court and decision was thereupon entered in petitioner Testa's favor for $680 (R. 2).

Respondent appealed to the Superior Court where on January 17, 1945, the same demurrer was argued and again overruled (R. 34, 40). From this determination, respondent appealed to the Supreme Court of Rhode Island on a bill of exceptions which was dismissed by that Court as premature on April 2, 1945, and the case was remitted to the Superior Court for hearing on the merits (R. 40).

On May 31, 1945, the case went to trial before the Superior Court and a jury (R. 4), where, at the close of the evidence, both parties moved for a directed verdict (R. 28). The respondent's motion raised the same question previously posed by the grounds urged for the demurrer, *i. e.*, the jurisdiction of the Superior Court over the subject matter of the action (R. 28–29). The trial judge denied respondent's motion, granted that of petitioner Testa, and directed a verdict in the latter's favor for $360 (R. 30, 31).[3]

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[2] There was one non-jurisdictional ground asserted in the last paragraph of the demurrer, *viz.*, that the parties were *in pari delicto*. So far as the record shows, this ground played no part in the determination of the case by any Rhode Island court.

[3] The trial judge allowed only the amount of the overcharge plus attorney's fees, denying treble damages because the violation was not found to be intentional (R. 29–30).

On August 3, 1945, Chester Bowles, then Price Administrator, was made a party intervenor by order of the Superior Court (R. 32–33).[4]

Again respondent appealed to the Supreme Court, this time on exceptions to the trial court's direction of a verdict as well as to the overruling of his demurrer (R. 34–35). On February 6, 1946, the exceptions were argued before the Supreme Court by all parties, including the then Price Administrator who, as intervenor, had filed a formal appearance in that Court. On May 23, 1946, the Supreme Court sustained respondent's exception to the overruling of his demurrer, and remitted the case to the Superior Court for further proceedings (R. 36–38). The Supreme Court rested its decision on the sole ground that the subject matter of the proceeding was an action for a penalty grounded on a foreign statute, which the courts of Rhode Island had no jurisdiction to entertain. The court relied upon and followed its earlier decision in *Robinson* v. *Norato*, 71 R. I. 256, 43 Atl. 2d 467.

On August 16, 1946, pursuant to the Supreme Court's opinion, the Superior Court entered final judgment in favor of defendant (R. 40).

Under the Rhode Island practice, the record is now lodged in the Superior Court.

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[4] Petitioner Paul A. Porter was duly substituted as intervenor (R. 39).

SPECIFICATION OF ERRORS TO BE URGED

The Supreme Court of Rhode Island erred:

1. In holding that the courts of Rhode Island were not required by the Constitution of the United States to take jurisdiction of the action.

2. In holding that a consumer's action for damages under Section 205 (e) of the Emergency Price Control Act as amended is penal.

3. In holding that such an action is, in respect of the courts of Rhode Island, founded on a foreign statute.

4. In sustaining respondent's exception to the overruling of his demurrer to the jurisdiction of the Superior Court of Rhode Island over the subject matter of the action.

REASONS FOR GRANTING THE WRIT

The court below held that, although the right sued upon was created by federal law, its character, as penal or remedial, was to be determined by state law; that under state law such a federal right was penal notwithstanding the circumstance that the trial judge denied treble damages; that this penal action created by federal law was to be regarded as founded on the statute of a foreign sovereignty; that the state courts of general jurisdiction would in consequence not entertain the action, any more than they would enforce the penal statutes of other states or foreign countries; and that this result did not do violence to the supremacy clause of

the Constitution. In so holding, the court below reaffirmed its prior decision in *Robinson* v. *Norato*, 71 R. I. 256, 43 Atl. 2d 467, another consumer action under Section 205 (e) of the Emergency Price Control Act, where the reasoning underlying the result was stated in greater detail.

The present decision runs counter to decisions of this Court dealing with similar cases, is in conflict with the rulings of other state courts of last resort as to the effect to be given the same statutory provision, and, if permitted to stand, will seriously impair the effective enforcement of price control.

1. The decision below is not in accord with hitherto accepted principles as to the effect to be given federal statutes by state courts. The provisions for concurrent state jurisdiction of actions brought under Sections 205 (c) and 205 (e) of the Emergency Price Control Act follow a well established legislative pattern under which this Court has repeatedly held that state courts cannot discriminate against federal rights and refuse to entertain a particular civil action founded on a federal statute where such courts have jurisdiction to entertain a similar action brought under a state statute. *Second Employers' Liability Cases*, 223 U. S. 1, 56, 59; *Minneapolis & St. Louis R. R. Co.* v. *Bombolis*, 241 U. S. 211, 221–223; *McKnett* v. *St. Louis & S. F. Ry. Co.*, 292 U. S. 230, 233; *Herb* v. *Pitcairn*, 324 U. S. 117; *First National Bank* v. *Morgan*, 132 U. S. 141. Here both the District

and Superior Courts of Rhode Island were amply empowered to try actions of this class and character.[5] The rule that a federal statute gives rise to rights enforcible in state as well as in federal courts is simply an interpretation of the supremacy clause of the Constitution—"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof * * * shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." Art. VI, cl. 2. The result of that clause, as this Court has said, is that "The United States is not a foreign sovereignty as regards the several States, but is a concurrent, and, within its jurisdiction, paramount sovereignty." *Claflin* v. *Houseman*, 93 U. S. 130, 136.

Nor is the basic rule above stated any the less applicable on the assumption that what is involved here is a federal civil penalty. *Claflin* v. *Houseman*, 93 U. S. 130, 137; *First National*

[5] The amount of the overcharge here involved was $210 (R. 2, 36). The District Courts have "exclusive original jurisdiction" of all civil actions involving up to $1,000. Gen. Laws of R. I. 1938, c. 500, § 28. The Superior Court has jurisdiction to try and decide *de novo* all such actions properly appealed from the District Courts. *Ibid.*, c. 496, § 10; c. 525, § 7; c. 526, § 6. This jurisdiction specifically includes actions for civil penalties, except that here the limitation on a District Court's competence is $500. *Ibid.*, c. 631, § 4; cf. c. 526, § 6.

Bank v. *Morgan*, 132 U. S. 141. Some later dicta to the contrary in *Huntington* v. *Attrill*, 146 U. S. 657, and *Robertson* v. *Baldwin*, 165 U. S. 275, were historically unsound—see Charles Warren, *Federal Criminal Laws and the State Courts* (1925) 38 Harv. L. Rev. 545—and were rejected in substance when the Court quoted the *Claflin* statement with approval in *Second Employers' Liability Cases*, 223 U. S. 1, 57-58. There is no more inherent obstacle to the recovery in state courts of civil penalties based on federal laws than there is to the maintenance in federal courts of criminal prosecutions founded on state laws. See *Tennessee* v. *Davis*, 100 U. S. 257.

2. The decision of the court below is in conflict with the views of the courts of ten other states as to the maintenance of civil enforcement actions under the Price Control Act.[6]

The highest courts of ten states have sustained their jurisdiction to entertain actions brought under Section 205 (e) of the Price Control Act. The Supreme Courts of Indiana and Oregon have taken jurisdiction of actions brought by the Price Administrator which were expressly held to be penal in nature.[7] California upheld a consumer action,

[6] That a conflict between courts of different states as to the meaning and effect of federal statutes is a ground for granting a petition for a writ of certiorari seems established by *Illinois ex rel. Gordon* v. *United States*, No. 749, Oct. T. 1945, decided April 22, 1946 (see p. 1 of slip opinion).

[7] *Bowles* v. *Heckman*, 64 N. E. 2d 660 (Ind.); *Bowles* v. *Barde Steel Co.*, 164 Pac. 2d 692 (Ore.).

regarding it as penal.[8] In the remaining seven states, jurisdiction of consumer actions was sustained on the ground that the action was remedial, but most of the decisions[9] go on to hold, some more explicitly than others, that state jurisdiction would be mandatory none the less even if the consumer action were penal, under the rule of *Second Employers' Liability Cases*, 223 U. S. 1, and the other decisions noted above, *supra*, pp. 8–9.

3. The decision of the court below, which holds that the character of the federal right of action as penal or remedial will be determined by recourse to prior decisions in Rhode Island, is in conflict with numerous decisions of this Court to the effect that where the "correct decision depends upon a construction of a federal act * * * the action of a state court must be in accord with the federal statute and the federal rule as to its application, rather than state statute, rule or policy." *Baltimore & O. R. Co.* v. *Kepner*, 314 U. S. 44, 52–53; see also *Herb* v. *Pitcairn*, 325 U. S. 77.

The result below, understandably enough, is therefore also in conflict with the decisions of this Court which hold that multiple damage

[8] *Miller* v. *Municipal Court of Los Angeles*, 22 Cal. 2d 818.

[9] *Lapinski* v. *Copacino*, 131 Conn. 119; *Regan* v. *Kroger Grocery & Baking Co.*, 386 Ill. 284; *Lambros* v. *Brown*, 41 Atl. 2d 78 (Md.); *Schaffer* v. *Leimberg*, 62 N. E. 2d 193 (Mass.); *Desper* v. *Warner Holding Co.*, 219 Minn. 607; *Schaubach* v. *Anderson*, 184 Va. 795; *Walker* v. *Gilman*, Sup. Ct. of Wash., decided Aug. 8, 1946.

actions created by statute "to afford a private remedy to a person injured" are remedial and not penal. *Huntington* v. *Attrill,* 146 U. S. 657, 674. This Court has accordingly held remedial an employee's action for double damages under Section 16 (b) of the Fair Labor Standards Act, 29 U. S. C. 216 (b) *Overnight Transportation Co.* v. *Missel,* 316 U. S. 572, 583. The courts of last resort of seven states, differing with the court below, have held consumer actions under Section 205 (e) of the Price Control Act to be remedial, and on that basis have sustained their jurisdiction to entertain such actions.[10] Two other states have joined Rhode Island in declining to follow the Federal rule, and hold these actions to be penal [11]—though not in connection with the obligation of their courts of general jurisdiction to entertain them.

There is some suggestion of division among the lower federal courts as to whether the consumer action is penal or remedial. Compare *Bowles* v. *American Stores, Inc.,* 139 F. 2d 377 (App. D. C.) with *Thierry* v. *Gilbert,* 147 F. 2d 603, 604 (C. C. A. 1), and *Bowles* v. *Griffin,* 151

[10] *Lapinski* v. *Copacino,* 131 Conn. 119; *Regan* v. *Kroger Grocery & Baking Co.,* 386 Ill. 284; *Lambros* v. *Brown,* 41 Atl. 2d 78 (Md.); *Schaffer* v. *Leimberg,* 62 N. E. 2d 193 (Mass.); *Desper* v. *Warner Holding Co.,* 219 Minn. 607; *Schaubach* v. *Anderson,* 184 Va. 795; *Walker* v. *Gilman,* Sup. Ct. of Wash., decided Aug. 8, 1946.

[11] *Stevenson* v. *Stoufer,* 21 N. W. 2d 287 (Iowa); *Zuest* v. *Ingra,* 134 N. J. L. 15.

F. 2d 458 (C. C. A. 5). This uncertainty among the federal courts has already influenced a close division in the Supreme Court of Iowa, where, on the issue of survival of the cause of action, the consumer action was held to be penal. *Stevenson* v. *Stoufer*, 21 N. W. 2d 287.

4. The effect of the decision below is to close the courts of Rhode Island, not only to all actions brought by consumers under Section 205 (e) of the Price Control Act in respect of retail sales at over-ceiling prices, but equally to the damage actions vested in the Price Administrator by the same subsection on account of all over-ceiling sales, *i. e.*, sales to commercial purchasers, together with sales to non-commercial purchasers where at least 30 days have elapsed since the violation and the buyer has not yet sued. For under the decision below Administrator's actions would likewise be penal and would also be considered actions for penalties based on a foreign statute. Such an exclusion of both rights of action from all the courts of a state plainly contravenes the explicit purpose of Congress which in Sections 205 (c) and 205 (e) conferred jurisdiction over damage actions on the state and federal courts concurrently; drastically curtails the availability of the vital treble-damage sanction to consumer and Administrator alike in a heavily populated area with highly concentrated industrial establishments; and, if followed in other

states, is certain seriously to undermine the enforcement of price control generally.

It is scarcely necessary to belabor the value of the consumer's damage action in price control enforcement. Congress and this Court have alike called it "the people's remedy against inflation." S. Rep. 922, 78th Cong., 2d sess., p. 14, quoted in *Porter* v. *Warner Holding Co.*, No. 793, Oct. T. 1945, decided June 3, 1946, p. 5 of slip opinion. In 1943, the latest year for which statistics are available, about 1500 consumer actions were filed [12]—and these actions are generally filed in state courts. The vast majority of them are filed and litigated independently of the Administrator and without his knowledge; their frequency is in part reflected by the range of decisions on state jurisdiction to entertain them. See the cases cited at pp. 10, 11, 12, 13, *supra*.

The Administrator's treble-damage actions are no less important. In 1945, 15786 such actions were filed, 10640 based on over-ceiling sales at retail and 5146 on non-retail transactions.[13] There are no figures currently available indicating the breakdown of these actions as between state and federal courts, but a recent check discloses that 220 Administrator's damage suits were brought in state courts in the month of May,

[12] Hearings on H. R. 4376, 78th Cong., 2d sess., before the House Committee on Banking and Currency, Vol. 1, p. 156.

[13] OPA Sixteenth Quarterly Report (H. Doc. 665, 79th Cong., 2d sess.), p. 114.

1946, alone. Most of these were actions which the Administrator is authorized to bring where the purchaser for personal use or consumption has failed to sue within 30 days of the violation; they were claims for relatively small overcharges, eminently suited for litigation in state courts rather than in a federal tribunal where in other classes of cases $3000 is the usual minimal jurisdictional amount.

The Administrator normally sues in the federal court only in cases involving commercial purchasers. Even with this self-imposed limitation, the Office of Price Administration now files more than half of the civil litigation in the federal courts.[14] To the extent that the decision below is permitted to stand, barring state courts from taking jurisdiction of damage actions under the Price Control Act, the inevitable result will be a further crowding of federal court calendars.

5. The decision below is also important in another connection, as its rationale would seem to require excluding from the courts of Rhode Island all actions for double damages brought by employees under Section 16 (b) of the Fair Labor Standards Act, 29 U. S. C. 216 (b), which though regarded as remedial by this Court (*Overnight Transportation Co.* v. *Missel*, 316 U. S. 572, 583)

[14] Annual Report for the fiscal year 1945, Administrative Office of United States Courts, p. 24.

and in other states (e. g. *Forsyth* v. *Central Foundry Co.*, 240 Ala. 277; *Emerson* v. *Mary Lincoln Candies, Inc.*, 173 Misc. 531, 154 Misc. 353, affirmed, 261 App. Div. 879, 261 App. Div. 1044, affirmed, 287 N. Y. 977; *Tidewater Opt. Co.* v. *Wittcamp*, 179 Va. 545; cf. *Robertson* v. *Argus Hosiery Mills*, 121 F. 2d 285 (C. C. A. 6), certiorari denied, 314 U. S. 681), would be deemed penal in Rhode Island.

CONCLUSION

For the foregoing reasons, this petition for a writ of certiorari should be granted, and the case advanced for hearing.

Respectfully submitted.

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AUGUST 1946.

APPENDIX

The pertinent provisions of the Emergency Price Control Act of 1942, c. 26, 56 Stat. 23, as amended by the Stabilization Extension Act of 1944 c. 325, 58 Stat. 632, 50 U. S. C. App., Supp. V, Sec. 901 *et seq.*, are as follows:

> SEC. 4. (a) It shall be unlawful, regardless of any contract, agreement, lease, or other obligation heretofore or hereafter entered into, for any person to sell or deliver any commodity, or in the course of trade or business to buy or receive any commodity, or to demand or receive any rent for any defense-area housing accommodations, or otherwise to do or omit to do any act, in violation of any regulation or order under section 2, or of any price schedule effective in accordance with the provisions of section 206, or of any regulation, order, or requirement under section 202 (b) or section 205 (f), or to offer, solicit, attempt, or agree to do any of the foregoing.
>
> * * * * *
>
> 205 (b) Any person who willfully violates any provision of section 4 of this Act, and any person who makes any statement or entry false in any material respect in any document or report required to be kept or filed under section 2 or section 202, shall, upon conviction thereof, be subject to a fine of not more than $5,000, or to

imprisonment for not more than two years in the case of a violation of section 4 (c) and for not more than one year in all other cases, or to both such fine and imprisonment. Whenever the Administrator has reason to believe that any person is liable to punishment under this subsection, he may certify the facts to the Attorney General, who may, in his discretion, cause appropriate proceedings to be brought.

(c) The district courts shall have jurisdiction of criminal proceedings for violations of section 4 of this Act, and, concurrently with State and Territorial courts, of all other proceedings under section 205 of this Act. Such criminal proceedings may be brought in any district in which any part of any act or transaction constituting the violation occurred. Except as provided in section 205 (f) (2), such other proceedings may be brought in any district in which any part of any act or transaction constituting the violation occurred, and may also be brought in the district in which the defendant resides or transacts business, and process in such cases may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found: *Provided, however,* That all suits under subsection (e) of this section shall be brought in the district or county in which the defendant resides or has a place of business, an office, or an agent.[1] Any such court shall advance on the docket and expedite the disposition of any criminal or other proceedings brought before it under this section. No costs shall be assessed

[1] Proviso added by Sec. 108 (a) of the Stabilization Extension Act of 1944.

against the Administrator or the United States Government in any proceeding under this Act.

(d) * * * In any suit or action wherein a party relies for ground of relief or defense upon this Act or any regulation, order, price schedule, requirement, or agreement thereunder, the court having jurisdiction of such suit or action shall certify such fact to the Administrator. The Administrator may intervene in any such suit or action.

(e) If any person selling a commodity violates a regulation, order, or price schedule prescribing a maximum price or maximum prices, the person who buys such commodity for use or consumption other than in the course of trade or business may, *within one year from the date of the occurrence of the violation, except as hereinafter provided, bring an action against the seller on account of the overcharge. In such action,[2] the seller shall be liable for reasonable attorney's fees and costs as determined by the court, plus whichever of the following sums is the greater: (1) Such amount not more than three times the amount of the overcharge, or the overcharges, upon which the action is based as the court in its discretion may

*Matter between asterisks was added by Section 108 (b) of the Stabilization Extension Act of 1944, and replaced the following clause: "bring an action either for $50 or for treble the amount by which the consideration exceeded the applicable maximum price, whichever is the greater, plus reasonable attorney's fees and costs as determined by the court."

[2] The Price Control Extension Act of 1946 (Public 548, 79th Cong., 2d sess.) replaced the words "such action" by "any action under this subsection."

determine, or (2) an amount not less than $25 nor more than $50, as the court in its discretion may determine: *Provided, however,* That such amount shall be the amount of the overcharge or overcharges, or $25, whichever is greater,[3] if the defendant proves that the violation of the regulation, order, or price schedule in question was neither wilful nor the result of failure to take practicable precautions against the occurrence of the violation.* For the purposes** of this section the payment or receipt of rent for defense-area housing accommodations shall be deemed the buying or selling of a commodity, as the case may be; * *and the word "overcharge" shall mean the amount by which the consideration exceeds the applicable maximum price.* * If any person selling a commodity violates a regulation order, or price schedule prescribing a maximum price or maximum prices, and the buyer † either fails to institute an action under this sub-

[3] The words after "overcharges" were deleted by the Price Control Extension Act of 1946.

**Matter between double asterisks was added by Section 108 (b) of the Stabilization Act of 1944.

†Matter between daggers was added by Section 108 (b) of the Stabilization Act of 1944, in lieu of the following language:

"* * * is not entitled to bring suit or action under this subsection, the Administrator may bring such action under this subsection on behalf of the United States. Any suit or action under this subsection may be brought in any court of competent jurisdiction, and shall be instituted within one year after delivery is completed or rent is paid. The provisions of this subsection shall not take effect until after the expiration of six months from the date of enactment of this Act."

section within thirty days from the date of the occurrence of the violation or is not entitled for any reason to bring the action, the Administrator may institute such action on behalf of the United States within such one-year period. If such action is instituted by the Administrator, the buyer shall thereafter be barred from bringing an action for the same violation or violations. Any action under this subsection by either the buyer or the Administrator, as the case may be, may be brought in any court of competent jurisdiction. A judgment in an action for damages under this subsection shall be a bar to the recovery under this subsection of any damages in any other action against the same seller on account of sales made to the same purchaser prior to the institution of the action in which such judgment was rendered.† * * *

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